

# CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

## I.(a) PLAINTIFFS

KATTY VALLE, IVANIA RAMIREZ, JANET RAMIREZ, and  
ZENEYDA BALTOIANO

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Mateo  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

ALLSTATE INSURANCE COMPANY, an Illinois Corp.,  
and DOES 1 to 20

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
TRACT OF LAND INVOLVED.

## (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Cynthia L. Mellema (State Bar No. 122798)  
Megan Dunham (State Bar No. 245991)  
Sonnenschein Nath & Rosenthal LLP  
2121 N California Blvd., Suite 800, Walnut Creek, CA 94596  
Telephone: (925) 949-2600

## ATTORNEYS (IF KNOWN)

Leandro H. Duran (State Bar No. 121847)  
Law Office Of Leandro H. Duran  
1035 Carleton Street, Berkeley, CA 94710  
Telephone: (510) 540-1046

## II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1. U.S. Government Plaintiff  
☐ 2. U.S. Government Defendant  
☐ 3 Federal Question  
(U.S. Government Not a Party)  
☒ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

PLACE AN "X" IN ONE BOX FOR PLAINTIFF  
AND ONE BOX FOR DEFENDANT

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding  
☒ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Amer w/ disab - Empl <input type="checkbox"/> 446 Amer w/ disab - Other	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
				FEDERAL TAX SUITS
				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

## VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Petition to compel arbitration and complaint for breach of covenant of good faith and fair dealings.

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ \_\_\_\_\_  
UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)  
(PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND

☐ SAN JOSE

DATE  
March 20, 2008

SIGNATURE OF ATTORNEY OF RECORD

*Cynthia L. Mellema*

ORIGINAL  
FILED  
08 MAR 20 PM 12:20  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CYNTHIA L. MELLEMA (State Bar No. 122798)  
MEGAN L. DUNHAM (State Bar No. 245991)  
SONNENSCHN NATH & ROSENTHAL LLP  
2121 N California Blvd., Suite 800  
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mdunham@sonnenschein.com

Attorneys for Defendant  
ALLSTATE INSURANCE COMPANY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

KATTY VALLE, IVANIA RAMIREZ,  
JANET RAMIREZ and ZENEYDA  
BALDODANO,

Plaintiffs,

vs.

ALLSTATE INSURANCE COMPANY,

Defendants.

No.

NOTICE OF REMOVAL OF A CIVIL  
ACTION

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA AND TO PLAINTIFFS AND THEIR  
ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. section 1441(a), defendant hereby  
removes to this Court the action described herein and respectfully submits the following  
statement of grounds for removal:

THE SUPERIOR COURT ACTION

1. On January 17, 2008, an action was commenced in the Superior Court of the State  
of California for the County of San Mateo, entitled "*Valle et al. v. Allstate Insurance Company,*  
*and Does 1 through 50, inclusive,*" Case No. CIV 46 9346 (the "Superior Court Action").

SONNENSCHN NATH & ROSENTHAL LLP  
525 MARKET STREET, 26<sup>TH</sup> FLOOR  
SAN FRANCISCO, CALIFORNIA 94105-2708  
(415) 882-5000



SERVICE

JURISDICTION

5. Allstate is informed and believes that plaintiff Ivania Ramirez was, at the time of filing of the Superior Court Action, now is, and at all relevant times has been, a citizen and resident of the State of California.

7. Allstate is informed and believes that plaintiff Zeneyda Baltodano was, at the time of filing of the Superior Court Action, now is, and at all relevant times has been, a citizen and resident of the State of California.

9. Plaintiff and Allstate, accordingly, are citizens and residents of different states.

AMOUNT IN CONTROVERSY

10. The amount in controversy in the Superior Court Action, exclusive of interest and costs, exceeds the \$75,000 jurisdictional minimum. Plaintiff Katty Valle has made a settlement demand for the \$100,000 policy limit. Plaintiffs Janet Ramirez and Zeneyda Baltodano have each demanded \$12,000. Plaintiff Ivania Ramirez has not yet made a demand. Plaintiffs therefore seek over \$124,000 in contract damages.

11. Additionally, plaintiffs seeks to recover attorney's fees. (Complaint, prayer for relief.) Attorney's fees incurred to compel payment of insurance policy benefits unreasonably withheld are recoverable as an element of damages under *Brandt v. Superior Court*, 37 Cal. 3d 813 (1985), and therefore must be included in calculating the amount of controversy. *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9<sup>th</sup> Cir. 1998).

12. Plaintiffs also seek an undisclosed amount of punitive damages. (Complaint, prayer for relief.) In calculating the amount in controversy, the Court must consider the punitive damages that may be recovered by plaintiffs if their claim for punitive damages should prevail. *Surber v. Reliance Nat. Indem. Co.*, 110 F. Supp. 2d 1227, 1232 (N.D. Cal. 2000).

ORIGINAL JURISDICTION

13. The Superior Court Action is a civil action of which this Court has original jurisdiction under 28 U.S.C. section 1332, in that plaintiffs and Allstate are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

14. The case is therefore one which Allstate may remove to this Court pursuant to 28 U.S.C. sections 1441 and 1446. The removal is effected less than thirty days after service of the Complaint in the Superior Court Action, in accordance with 28 U.S.C. section 1446(b).

WHEREFORE, Allstate hereby gives notice that this action has been removed, in its entirety, from the Superior Court of the State of California for the County of San Mateo to the United States District Court for the Northern District of California, San Francisco Division for further proceedings as though it originally had been instituted herein.

Respectfully submitted,

Dated: March 19, 2008

SONNENSCHN NATH & ROSENTHAL LLP

By \_\_\_\_\_  
CYNTHIA MELLEMA

Attorneys for Defendant  
ALLSTATE INSURANCE COMPANY

SONNENSCHN NATH & ROSENTHAL LLP  
525 MARKET STREET, 26<sup>TH</sup> FLOOR  
SAN FRANCISCO, CALIFORNIA 94105-2708  
(415) 882-5000

## **EXHIBIT A**



Feb. 13. 2008 2:17PM ALLSTATE

No. 8685 P. 2

**SUMMONS  
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

ALLSTATE INSURANCE COMPANY,

**YOU ARE BEING SUED BY PLAINTIFF:****(LO ESTÁ DEMANDANDO EL DEMANDANTE):**KATTY VALLE, IVANIA RAMIREZ, JANET RAMIREZ, and  
ZENEYDA BALDODANOFOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)**ENDORSED FILED  
SAN MATEO COUNTY**

JAN 17 2008

Clerk of the Superior Court  
By R. Montgomery  
Deputy Clerk

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case, there may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

**Tiene 30 DÍAS DE CALENDARIO** después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

400 County Center,  
Redwood City, California, 94063

CASE NUMBER

(Número del Caso)

CIV 469346

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

LAW OFFICE OF LEANDRO H. DURAN

1035 Carleton Street, Berkeley CA 94710 (510) 540-1046

R. MONTGOMERY

DATE:

(Fecha)

JAN 17 2008

JOHN C. FITTON

Clerk, by

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):

Page 1 of 1

Feb. 13. 2008 2:18PM ALLSTATE

No. 8685 P. 3

**ENDORSED FILED  
SAN MATEO COUNTY**

JAN 17 2008

Clerk of the Superior Court  
by R. Montgomery  
Deputy Clerk

1 LEANDRO H. DURAN, (SBN 121847)  
2 LAW OFFICE OF LEANDRO H. DURAN  
3 1035 Carleton Street  
4 Berkeley, California 94710  
Telephone (510)540-1046  
Facsimile (510)540-1036

5 Attorney for Petitioners KATTY VALLE, IVANIA RAMIREZ,  
6 JANET RAMIREZ, and ZENEYDA BALDODANO

7 SUPERIOR COURT OF CALIFORNIA,  
8 COUNTY OF SAN MATEO,  
9 UNLIMITED JURISDICTION

11 KATTY VALLE, IVANIA RAMIREZ, JANET  
12 RAMIREZ, and ZENEYDA BALDODANO  
13 Petitioner(s),

14 vs.

15 ALLSTATE INSURANCE COMPANY,  
16 Respondent(s).

Case No.:

**CIV 469846**

PETITION TO COMPEL ARBITRATION AND  
COMPLAINT FOR BREACH OF COVENANT OF  
GOOD FAITH AND FAIR DEALINGS.

19 Petitioners allege:

- 20 1. On May 6, 2004 Katty Valle and Allstate Insurance Company entered into a written  
21 contract of motor vehicle bodily liability insurance. Pursuant to Insurance Code section 11580.2(b)  
22 petitioner is an "insured" and entitled to benefits under the policy.
- 23 2. The agreement was made in San Mateo County, California.
- 24 3. On or about September 26, 2006 Katty Valle, Ivania Ramirez, Janet Ramirez, And Zeneida  
25 Baldodano ("Petitioners") made a claim for damages under the uninsured/underinsured motorist  
26 provision of the policy. Although the petitioner made a demand for the insurer to begin proceedings  
27 to appoint an arbitrator, they (the insurer) failed to begin the process to appoint an arbitrator as to the  
28 amount of damages.

PETITION TO COMPEL ARBITRATION AND COMPLAINT FOR BREACH OF COVENANT OF GOOD FAITH AND FAIR



Feb. 13. 2008 2:19PM ALLSTATE

No. 8685 P. 4

4. Pursuant to the policy, the parties agreed to arbitrate the issue of the claimant's legal entitlement to recovery and the amount of damages.

5. Petitioner filed an action in this court but later dismissed the action without prejudice after respondent Allstate Insurance acting through its legal representative agreed to submit the matter to retired Judge Richard Hodge and an arbitration process.

6. On or about November 16, 2007, petitioners did submit the case to Judge Richard Hodge for an arbitration date. A controversy has arisen regarding the scheduling of the arbitration, discovery, law and motion related matters and respondent refuses to arbitrate.

7. Petitioner has not waived the right to compel arbitration, and does not know of any ground that would permit the revocation of the contract of insurance.

8. The claimant does not have a worker's compensation claim arising from the uninsured motorist incident.

9. Petitioners alleges that the refusal to arbitrate and failure to make underinsured motorist benefits available is done in bad faith thereby constituting a breach of the covenant of good faith and fair dealings. The conduct is despicable, oppressive, and is in wanton disregard of petitioner's rights, thus, fraudulent.

WHEREFORE, petitioner(s) requests that:

1. The Court issue an order compelling the arbitration of this dispute and appointing a neutral arbitrator.

2. That the Petitioners be awarded costs of suit and reasonable attorney fees.

3. That the Petitioner be awarded general damages including punitive damages.

4. That the Petitioners be awarded such other and further relief as the Court may deem proper.

Dated: 1/14/08

  
LEANDRO H. DURAN

Attorney for Petitioners

KATTY VALLE, IVANIA RAMIREZ, JANET  
RAMIREZ, and ZENEYDA BALDODANO

Feb. 13. 2008 2:19PM ALLSTATE

No. 8685 P. 5.

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, number, and address): <b>LEANDRO H. DURAN, (SBN 121847)</b> <b>LAW OFFICE OF LEANDRO H. DURAN</b> 1035 Carleton Street Berkeley, California 94710 TELEPHONE NO.: (510)540-1046 FAX NO.: ATTORNEY FOR (Name): <b>Valle, Ramirez &amp; Baltodano</b>		FOR COURT USE ONLY  <b>RECEIVED</b>  JAN 17 2008  SUPERIOR COURT CIVIL DIVISION
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>SAN MATEO</b> , STREET ADDRESS: <b>400 County Center</b> , MAILING ADDRESS: CITY AND ZIP CODE: <b>Redwood City, California, 94063</b> BRANCH NAME:		
CASE NAME: <b>VALLE V ALLSTATE</b>		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
CASE NUMBER: <b>CIV 469846</b>		JUDGE: DEPT:

Items 1-8 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input checked="" type="checkbox"/> Uninsured motorist (46) <b>Other P/VPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/VPD/WD (23) <b>Non-P/VPD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/VPD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (38) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **DECL RELIEF AND BREACH OF COVENANT GOOD FAITH**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 1/14/08

LEANDRO H DURAN

(TYPE OR PRINT NAME)

## NOTICE

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.



Feb. 13. 2008 2:19PM ALLSTATE

No. 8685 P. 8

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>LEANDRO H. DURAN, SBN 121847</b> Law Offices of Leandro H. Duran 1035 Carleton St. Berkeley, CA 94710 TELEPHONE NO.: (510) 540-1046 FAX NO. (Optional): (510) 540-1036 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>Katty Valle, Ivania Ramirez, Janet Ramirez, Zeneyda Baltodano</b>		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo STREET ADDRESS: 400 County Center MAILING ADDRESS: CITY AND ZIP CODE: Redwood City, CA 94063 BRANCH NAME:		
PLAINTIFF/PETITIONER: Valle, et. al. DEFENDANT/RESPONDENT: Allstate Ins. Co.		
<b>NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL</b>		CASE NUMBER: <b>CIV 469346</b>

TO (insert name of party being served): Allstate Insurance Co.**NOTICE**

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: February 6, 2008

LEANDRO H. DURAN

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

**ACKNOWLEDGMENT OF RECEIPT**

This acknowledges receipt of (to be completed by sender before mailing):

- ☒ A copy of the summons and of the complaint.
- ☒ Other (specify):

Civil Case Cover Sheet, Notice of Case Management Conference, blank Case Management Statement, ADR packet, Stipulation and Order to appropriate dispute resolution, Div. II Rules, CourtCall Instructions, blank Request for CourtCall Telephonic Appearance.

(To be completed by recipient):

Date this form is signed:

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)



Feb. 13. 2008 2:20PM ALLSTATE

No. 8685 P. 9

## NOTICE OF CASE MANAGEMENT CONFERENCE

VALLE**ENDORSED FILED**  
**SAN MATEO COUNTY**

JAN 17 2008

VS.

ALLSTATEClerk of the Superior Court  
By R. Montgomery  
DEPUTY CLERKCase No. **CV 469346**Date: MAY 28, 2008

Time: 9:00 a.m.

Dept. 3 on Tuesday & Thursday  
Dept. 28 on Wednesday & Friday

You are hereby given notice of your Case Management Conference. The date, time and department have been written above.

1. In accordance with applicable California Rules of Court and Local Rules 2.3(d)1-4 and 2.3(m), you are hereby ordered to:
- Serve all named defendants and file proofs of service on those defendants with the court within 60 days of filing the complaint (CRC 201.7).
  - Serve a copy of this notice, Case Management Statement and ADR Information Sheet on all named parties in this action.
  - File and serve a completed Case Management Statement at least 15 days before the Case Management Conference [CRC 212(g)]. Failure to do so may result in monetary sanctions.
  - Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 212(f) no later than 30 days before the date set for the Case Management Conference.

2. If you fail to follow the orders above, you are ordered to show cause why you should not be sanctioned. The Order To Show Cause hearing will be at the same time as the Case Management Conference hearing. Sanctions may include monetary, evidentiary or issue sanctions as well as striking pleadings and/or dismissal.

- Continuances of case management conferences are highly disfavored unless good cause is shown.
- Parties may proceed to an appropriate dispute resolution process ("ADR") by filing a Stipulation To ADR and Proposed Order (see attached form.). If plaintiff files a Stipulation To ADR and Proposed Order electing to proceed to judicial arbitration, the Case Management Conference will be taken off the court calendar and the case will be referred to the Arbitration Administrator. If plaintiffs and defendants file a completed stipulation to another ADR process (e.g., mediation) 10 days prior to the first scheduled case management conference, the case management conference will be continued for 90 days to allow parties time to complete their ADR session. The court will notify parties of their new case management conference date.
- If you have filed a default or a judgment has been entered, your case is not automatically taken off the Case Management Conference Calendar. If "Does", "Roes", etc. are named in your complaint, they must be dismissed in order to close the case. If any party is in bankruptcy, the case is stayed only as to that named party.
- You are further ordered to appear in person\* (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
- The Case Management judge will issue orders at the conclusion of the conference that may include:
  - Referring parties to voluntary ADR and setting an ADR completion date;
  - Dismissing or severing claims or parties;
  - Setting a trial date.
- The Case Management judge may be the trial judge in this case.

For further information regarding case management policies and procedures, see the court website at [www.sanmateocourt.org](http://www.sanmateocourt.org).

\* Telephonic appearances at case management conferences are available by contacting CourtCall T.I.C. an independent

CYNTHIA L. MELLEMA (State Bar No. 122798)  
 MEGAN L. DUNHAM (State Bar No. 245991)  
 SONNENSCHN NATH & ROSENTHAL LLP  
 2121 N California Blvd., Suite 800  
 Walnut Creek, CA 94596  
 Telephone: (925) 949-2600  
 Facsimile: (925) 949-2610  
 Email: cmellema@sonnenschein.com  
 mdunham@sonnenschein.com

**ENDORSED FILED**  
**SAN MATEO COUNTY**

MAR 19 2008

Clerk of the Superior Court  
 By A. De Leon  
 DEPUTY CLERK

Attorneys for Defendant  
 ALLSTATE INSURANCE COMPANY

SUPERIOR COURT OF CALIFORNIA  
 COUNTY OF SAN MATEO

KATTY VALLE, IVANIA RAMIREZ,  
 JANET RAMIREZ and ZENEYDA  
 BALDODANO,

No. CIV469346

DEFENDANT ALLSTATE INSURANCE  
 COMPANY'S ANSWER TO  
 PLAINTIFFS' COMPLAINT

Plaintiffs,

vs.

ALLSTATE INSURANCE COMPANY,

Defendants.

**BY FAX**

Defendant Allstate Insurance Company ("Allstate") hereby answers the unverified  
 Complaint of Katty Valle, Ivania Ramirez, Janet Ramirez and Zencyda Baldodano ("Plaintiffs")  
 as follows:

**GENERAL DENIAL**

Pursuant to Code of Civil Procedure section 431.30(d), Allstate generally denies the  
 material allegations of Plaintiffs' Complaint, and each cause of action against Allstate contained  
 therein. Further, Allstate denies that Plaintiffs have suffered any damages as alleged in the  
 Complaint, or in any amount or at all, due to any act, error or omission of Allstate.

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No. CIV469346

ALLSTATE INS. CO.'S ANSWER TO  
 PLAINTIFFS' COMPLAINT

SONNENSCHN NATH & ROSENTHAL LLP  
 2121 NORTH CALIFORNIA BLVD., SUITE 800  
 WALNUT CREEK, CALIFORNIA 94596-7342  
 (925) 949-2600



**AFFIRMATIVE DEFENSES**

(Applicable To All Causes of Action)

**First Defense**

**(Failure to State a Cause of Action)**

The Complaint, and each and every purported cause of action therein, fails to state facts sufficient to constitute a cause of action against Allstate.

**Second Defense**

**(Waiver)**

The Complaint, and each and every purported cause of action therein, is barred against Allstate by the doctrine of waiver.

**Third Defense**

**(Estoppel)**

The Complaint, and each and every purported cause of action therein, is barred against Allstate by the doctrine of estoppel.

**Fourth Defense**

**(Laches)**

The Complaint, and each and every purported cause of action therein, is barred against Allstate by the doctrine of laches.

**Fifth Defense**

**(Unclean Hands)**

The Complaint, and each and every purported cause of action therein, is barred against Allstate by the doctrine of unclean hands.

**Sixth Defense**

**(Fault of Others)**

Plaintiffs' damages, the fact and extent of which Allstate denies, were either wholly or partially caused by and/or contributed to by the fault of others, whether that fault be the proximate result of intentional conduct, negligence, breach of contract, or any other type of fault, of persons, firms, corporations or entities other than Allstate, for which Allstate is not



1 responsible. Such intentional conduct, negligence or fault bars recovery against Allstate or  
2 comparatively reduces the percentage of fault or negligence, if any, of Allstate.

3 **Seventh Defense**

4 **(Active Fault of Plaintiffs)**

5 The Complaint, and each and every purported cause of action in the Complaint, is barred  
6 by the active fault of Plaintiffs and/or Plaintiffs' counsel.

7 **Eighth Defense**

8 **(Comparative Fault)**

9 The Complaint, and each and every purported cause of action in the Complaint, is barred  
10 and/or Plaintiffs' recovery is reduced because Plaintiffs' alleged damages were the result of  
11 Plaintiffs' comparative fault.

12 **Ninth Defense**

13 **(No Causation)**

14 Plaintiffs are not entitled to relief from Allstate because they have not sustained any  
15 injury, damage or loss by reason of any conduct, act, error or omission on Allstate's part.

16 **Tenth Defense**

17 **(Intervening Cause)**

18 Plaintiffs' damages, the fact and extent of which Allstate denies, were proximately  
19 caused by intervening, superseding and/or supervening acts for which Allstate has no liability.

20 **Eleventh Defense**

21 **(Mitigation of Damages)**

22 Plaintiffs' recovery against Allstate, if any, is barred and/or limited to the extent  
23 plaintiffs have failed to mitigate, minimize or avoid any damages they have allegedly suffered.

24 **Twelfth Defense**

25 **(Set-Off)**

26 To the extent Allstate is liable to plaintiffs, if at all, Allstate is entitled to a set-off on  
27 account of damages sustained by Allstate as a result of Plaintiffs' acts, conduct or omissions.  
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2121 NORTH CALIFORNIA BLVD., SUITE 800  
WALNUT CREEK, CALIFORNIA 94596-7342  
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**Thirteenth Defense**

**(Speculative Nature of Damages)**

Plaintiffs are not entitled to judgment because their damages claims are speculative.

**Fourteenth Defense**

**(Election of Remedies)**

To the extent Plaintiffs have elected to pursue a certain remedy, they are barred from pursuing or recovering under any other remedy under the doctrine of election of remedies.

**Fifteenth Defense**

**(Privilege)**

Allstate's alleged acts, conduct and/or omissions were lawful, privileged and/or justified.

**Sixteenth Defense**

**(Accord and Satisfaction)**

The Complaint, and each and every purported cause of action therein, is barred by the doctrine of accord and satisfaction.

**Seventeenth Defense**

**(Ratification of Conduct)**

With full knowledge of all facts in any way connected with or relating to the matters alleged in the Complaint, Plaintiffs duly ratified, acquiesced and/or confirmed in all respects the conduct and/or omissions of Allstate alleged in the Complaint.

**Eighteenth Defense**

**(Assumption of Risk)**

Plaintiffs knew, or in the exercise of reasonable care should have known, the risks of the matters alleged in the Complaint. Plaintiffs knowingly and voluntarily assumed and accepted such risks, and any damages allegedly suffered by Plaintiffs were the proximate result of Plaintiffs' assumptions and acceptance of such risks.

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**Nineteenth Defense****(No Coverage for Claimed Losses)**

The Complaint, and each and every purported cause of action therein, is barred to the extent that it seeks payment, reimbursement, contribution, or indemnification for, or is based on, a loss that is not covered by, or is excluded from, coverage under the terms, exclusions, conditions and limitations of the Policy.

**Twentieth Defense****(Allstate's Compliance With Obligations)**

Allstate fully performed all obligations, both express and implied, if any, owed to Plaintiffs under the Policy and applicable law.

**Twenty-First Defense****(Policy Limits)**

Plaintiffs' Policy is subject to certain deductibles and coverage limits. Even if the policy provided coverage for the alleged loss, that coverage would be subject to the Policy's deductibles and coverage limits.

**Twenty-Second Defense****(Failure to Comply With Policy Terms)**

The Complaint is barred to the extent the Plaintiffs have failed to perform all of their obligations under the Policy, including their duties to cooperate with Allstate in the processing of claims and to document and substantiate their claimed losses.

**Twenty-Third Defense****(Statute of Limitations)**

The Complaint is barred by the applicable statutes of limitations, including, but not limited to, California Code of Civil Procedure section 337(1), 337(2), 338(a), (b), (d) and/or (j), 339, 340, 340.6, 340.8 and 343, and Insurance Code sections 2070 and/or 2071.

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**Twenty-Fourth Defense****(Non-Cooperation)**

The Complaint, and each and every purported cause of action therein, is barred by plaintiffs, and/or plaintiffs counsel's failure to cooperate with Allstate.

**Twenty-Fifth Defense****(Arbitration Clause)**

The Policy states "If you and we disagree on your right to receive any damages or on the amount of damages, then upon written request of either party, the disagreement will be settled by a single neutral arbitrator." Plaintiffs have asserted their right to use an arbitrator. Accordingly, Plaintiffs' claim for policy benefits is subject to arbitration under the Policy and/or California Insurance Code Section 11580.2.

**Twenty-Sixth Defense****(Failure to Comply With Discovery During Arbitration)**

The Complaint is barred to the extent Plaintiffs have impeded the arbitration process by refusing to participate in the discovery process (answer interrogatories, provide documents, attend depositions) as required by California Insurance Code Section 11580.2 and under Title 4 of Part 4 of the California Code of Civil Procedure.

**Twenty-Seventh Defense****(Good Faith of Allstate)**

Allstate's conduct was at all times reasonable and in good faith, not tortious.

**Twenty-Eighth Defense****(Reasonableness of Allstate)**

Allstate's conduct was at all times reasonable and not tortious.

**Twenty-Ninth Defense****(Plaintiffs' Claim Raised Genuine Issues)**

Plaintiffs should take nothing pursuant to the Complaint because their claims to Allstate raised genuine issues and/or disputes as to Allstate's duties, if any, under the Allstate

1 Automobile Policy at issue in the Complaint (the "Policy"), and Allstate's belief in the validity  
2 of these issues and/or disputes was reasonable.

3 **Thirtieth Defense**

4 **(No Punitive or Non-Compensatory Damages)**

5 The Complaint fails to state facts sufficient to entitle Plaintiffs to punitive damages.

6 **Thirty-First Defense**

7 **(Unconstitutionality of Punitive Damages)**

8 Plaintiffs' claim for punitive damages is barred because the California punitive damages  
9 statute is unconstitutional in that, among other things, it is void for vagueness, violates the equal  
10 protection clause, violates the due process clause, is an undue burden on interstate commerce,  
11 violates the contract clause, and violates the Eighth Amendment proscription against excessive  
12 fines pursuant to the United States and California Constitutions.

13 **Thirty-Second Defense**

14 **(No Entitlement to Attorneys' Fees)**

15 Plaintiffs are precluded from recovering attorneys' fees and costs from Allstate under  
16 applicable provisions of the law.

17 **Thirty-Third Defense**

18 **(Stay of Plaintiffs Cause of Action for Bad Faith)**

19 Plaintiffs cause of action for breach of the covenant of good faith and fair dealing should  
20 be stayed pending completion of the arbitration.

21 **Thirty-Fourth Defense**

22 **(Right To Assert Additional Defenses)**

23 WHEREFORE, Allstate prays for judgment as follows:

- 24 1. That Plaintiffs take nothing by way of their Complaint;
- 25 2. That the Complaint be dismissed with prejudice and judgment entered in favor of
- 26 Allstate;
- 27 3. That Allstate be awarded costs and attorneys' fees incurred in this action; and
- 28 4. For such other and further relief as this Court deems just and proper.

1 Dated: March 19, 2008

Respectfully submitted,

2 SONNENSCHN NATH & ROSENTHAL LLP

3  
4 By Cynthia L. Mellema  
5 Cynthia L. Mellema

6 Attorneys for Defendant  
7 ALLSTATE INSURANCE COMPANY

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SONNENSCHN NATH & ROSENTHAL LLP  
2121 NORTH CALIFORNIA BLVD., SUITE 800  
WALNUT CREEK, CALIFORNIA 94596-7342  
(925) 949-2600



PROOF OF SERVICE

I, Gloria Courtney, hereby declare:

I am employed in the City of Walnut Creek, and in the County of Contra Costa, California, in the office of a member of the bar of this court, at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Sonnenschein, Nath & Rosenthal, LLP, 2121 North California Blvd., Suite 800, Walnut Creek, California 94596-7342.

On March 19, 2008, I caused to be served on the interested parties in this action the following document(s): **DEFENDANT ALLSTATE INSURANCE COMPANY'S ANSWER TO PLAINTIFFS' COMPLAINT**, by placing a true copy(ies) thereof, on the above date, enclosed in a sealed envelope, following the ordinary business practice of Sonnenschein Nath & Rosenthal LLP, as follows:

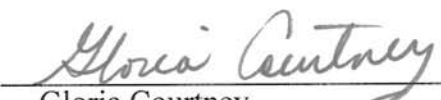
***Attorney for Plaintiffs:***

Leandro H. Duran  
Law Office of Leandro H. Duran  
1035 Carleton Street  
Berkeley, California 94710

Telephone: (510) 540-1046  
Facsimile: (510) 540-1036

☒ U.S. MAIL: I am personally and readily familiar with the business practice of Sonnenschein Nath & Rosenthal LLP for collection and processing of correspondence for mailing with the United States Postal Service, pursuant to which mail placed for collection at designated stations in the ordinary course of business is deposited the same day, proper postage prepaid, with the United States Postal Service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 19, 2008, at Walnut Creek, California.

  
Gloria Courtney